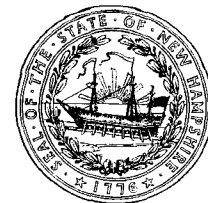




The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

July 3, 2006

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RETURN RECEIPT REQUESTED

LETTER OF DEFICIENCY
No. WMD 06-016

Mark Greenlaw, Chief Financial Officer
D. G. O'Brien, Inc.
1 Chase Park
P.O. Box 159
Seabrook, NH 03874-0159

Re: D. G. O'Brien, Inc.
Seabrook, New Hampshire
EPA ID # NHD001422278

Dear Mr. Greenlaw:

On February 2, 2006, the Department of Environmental Services, Waste Management Division ("DES") conducted an inspection of D. G. O'Brien, Inc. ("DGO"). The purpose of the inspection was to determine DGO's compliance status relative to RSA Ch. 147-A and the New Hampshire Hazardous Waste Rules, Env-Wm 100-1100.

As a result of the inspection, DES issued a Notice of Findings ("NOF") to DGO on March 21, 2006. On April 25, 2006 and May 9, 2006, DES received written responses to the NOF from Linda Parker, DGO Environmental, Health and Safety Officer. Based on the results of the inspection and the information provided in response to the NOF, the following deficiencies in your hazardous waste management program were documented:

1. RSA 147-A: 4, I – Disposal of Hazardous Waste

At the time of the inspection, DES confirmed that DGO was disposing of waste wipers and swabs contaminated with spent solvent (*i.e.*, trichloroethylene, methyl ethyl ketone) generated in the Cable Assembly Area, the Torque Motor Assembly Area, and the Fiber Optic Assembly Lab as a non-hazardous solid waste.

According to Env-Wm 402.06(a), spent trichloroethylene and spent methyl ethyl ketone are listed hazardous wastes. Furthermore, Env-Wm 404.01(a)(1) specifies that any waste or material (*e.g.*, wipers and swabs), mixed with any waste listed in Env-Wm 402.06(a) shall be regulated as a hazardous waste.

RSA 147-A: 4, I requires any person who wishes to operate a hazardous waste facility for disposing of hazardous waste to first obtain a permit from DES. Disposal of the hazardous waste wipers and swabs contaminated with spent solvent as a non-hazardous solid waste is a form of disposal which requires a hazardous waste facility permit.

DES requested that DGO immediately cease the disposal of hazardous waste and ensure that all hazardous waste is delivered to a permitted facility authorized to handle the hazardous waste. DES further requests, that DGO provide the following information, which was previously requested in the NOF:

- a. A written estimate of how long (*i.e.*, years and months) DGO has been disposing of the wipers and swabs contaminated with spent solvent as a solid waste;
- b. A written estimate of the quantity of wipers and swabs contaminated with spent solvent which were disposed of during the time period reported in response to question (a.); and
- c. The names of each destination facility which has received the wipers and swabs contaminated with spent solvent, as well as the relative quantities disposed of at each facility.

In the submittal received on April 25, 2006 from DGO, Linda Parker stated that DGO discontinued the disposal of the waste wipers and swabs contaminated with spent solvent the day after the inspection, on February 3, 2006. In the May 9, 2006 submittal, DGO provided the historical information requested in the NOF, regarding the disposal of the waste wipers and swabs contaminated with spent solvent. No further action is required.

2. Env-Wm 502.01 – Hazardous Waste Determination

At the time of the inspection, a formal hazardous waste determination had not been performed for the waste wipers and swabs contaminated with spent solvent generated in the Cable Assembly Area, the Torque Motor Assembly Area, and the Fiber Optic Assembly Lab.

Env-Wm 502.01 requires that all generators of waste determine if their waste is a hazardous waste. Waste determined to be hazardous must be handled pursuant to the requirements of the Hazardous Waste Rules.

DES requested that DGO perform an adequate hazardous waste determination for the waste wipers and swabs contaminated with spent solvent.

In the submittal received on April 25, 2006 from DGO, Linda Parker, stated that DGO began managing the waste wipers and swabs contaminated with spent solvent as a hazardous waste the day after the inspection, February 3, 2006. No further action is required.

3. Env-Wm 509.02(a)(1) – Inspection Requirements

At the time of the inspection, DGO failed to document inspections of the facility's hazardous waste storage areas during 1 of the 52 weeks during the previous year; the failure to conduct inspections occurred during a December 2005 facility shutdown.

Env-Wm 509.02(a)(1), which references 40 CFR 265.15, General Inspection Requirements, requires full quantity generators to conduct and document inspections of the facility, including the hazardous waste storage area(s). Additionally, 40 CFR Subpart I, Use and Management of Containers, stipulates that containers must be inspected at least weekly.

DES requested that DGO ensure that weekly inspections of its hazardous waste storage area are conducted and recorded in an inspection log. Furthermore, the inspections must be conducted during facility shutdowns if there are hazardous wastes stored on-site.

Maintaining compliance with the hazardous waste rules is a challenging undertaking, and despite a minor area noted for improvement, DGO has demonstrated a high level of achievement in ensuring that the hazardous waste storage area is inspected weekly. It is obvious that DGO takes its obligation to inspect the hazardous waste storage area very seriously, and is commended for its performance.

At the time of the inspection, DES personnel verified that inspections are currently being recorded in an inspection checklist. No further action is required.

4. Env-Wm 509.02(a)(2) – Personnel Training

A review of DGO's personnel training records revealed that the following employees, Cameron, Melody (2004); Jordan, Bruce (2001, 2002, & 2003); Lyman, David (2005); and Welch, Eugene (2001, 2002, & 2003), did not receive initial hazardous waste training or did not take part in annual reviews during the years indicated in parentheses.

Env-Wm 509.02(a)(2), which references 40 CFR 265.16, Personnel Training, requires full quantity generators to maintain a personnel training program. This includes, but is not limited to, ensuring that initial training and annual reviews are conducted for personnel handling hazardous waste, and requires full quantity generators to maintain specific documents and records related to personnel training.

DES requests that DGO ensure all employees who have hazardous waste responsibilities receive initial training and annual reviews.

*In the submittal received on April 25, 2006 from DGO, Linda Parker provided information indicating that all DGO employees are current with the required hazardous waste training except for David Lyman, Hazardous Waste Handler. **DES requests that David Lyman receives the required hazardous waste training annual review.***

5. Env-Wm 509.02(a)(5) – Contingency Plan Requirements

At the time of the inspection, a review of DGO's contingency plan revealed that portions of the contingency plan were incomplete. Specific deficiencies are listed in the attached Contingency Plan Module.

Env-Wm 509.02(a)(5), which references 40 CFR 265, Subpart D, requires full quantity generators to maintain a complete contingency plan at the site.

DES requests that DGO revise and update its contingency plan to correct any deficiencies as identified in the enclosed Contingency Plan Module and submit a copy of the revised portions of the plan to local authorities and DES.

*In the submittal received on April 25, 2006 from DGO, Linda Parker provided an updated contingency plan. **DES requests that DGO submit the updated contingency plan to the local authorities and provide documentation of that submittal to DES.***

6. Env-Wm 509.02(b) – Emergency Posting

At the time of the inspection, the emergency posting failed to document the telephone numbers for local emergency responders (*i.e.*, fire, police, hospital, and emergency response teams) and the location of fire extinguishers, spill control material, and alarms.

Env-Wm 509.02(b) requires that full quantity generators post a list of the steps to take if an emergency occurs and the following emergency numbers at the nearest telephone to the hazardous waste storage area:

- a. The emergency coordinators (home and office);
- b. The fire department, police department, and State of New Hampshire and local emergency response teams that may be called upon to provide emergency services, unless the facility has a 24-hour response team designated to provide emergency services whose number is posted; and

- c. The location of fire extinguishers and spill control material, and if present, fire and internal emergency alarms.

DES requested that DGO post the required information at the nearest telephone to the hazardous waste storage areas.

In the submittal received on April 25, 2006 from DGO, Linda Parker stated that the required information had been added to the emergency posting. No further action is required.

7. Env-Wm 509.03(g) - Satellite Storage Container Marking

At the time of the inspection, one (1) 5-gallon satellite storage container of hazardous waste alcohol stored in the machine shop and one (1) less than 5-gallon satellite storage container of hazardous waste methyl ethyl ketone, isopropyl alcohol, and trichloroethylene stored in the cable assembly area chemical hood were not marked with the words "hazardous waste." See the attached Container Inventory ("Inventory").

Env-Wm 509.03(g) requires that at the time the satellite storage container(s) is first used to store wastes, the hazardous waste container(s) is marked with the words "hazardous waste" and words that identify the contents of the container(s).

DES requested that DGO properly mark all hazardous waste satellite storage containers at the time they are first used to store waste with the words "hazardous waste" and words that identify the contents of the container.

At the time of the inspection, DES personnel observed a DGO representative marking the containers with the words "hazardous waste." No further action is required.

8. Env-Wm 1102.03(c) and Env-Wm 1112.03(a) – Universal Waste Container Requirements

At the time of the inspection, one (1) 4-foot container of universal waste lamps was not closed. See the attached Inventory.

Env-Wm 1102.03(c)(1) requires universal waste containers to be closed, except when universal waste is being added to or removed from the container.

DES requested DGO to ensure that all containers of universal wastes are closed, except when universal waste is being added to or removed from the container.

DGO personnel closed the container of universal waste lamps at the time of the inspection. No further action is required.

DES believes the remaining portion of the cited deficiencies can be corrected and **a report describing the corrective measures taken by DGO can be submitted within thirty (30) days of receipt of this letter.** Supporting documentation that describes the measures taken to achieve compliance should be included with the report.

In the event compliance is not achieved within this period, DES may take further action against DGO including issuing an order requiring that the deficiencies be corrected, initiating an administrative fine proceeding, and/or referring the matter to the New Hampshire Department of Justice for imposition of civil penalties. In addition, DES personnel may re-inspect your facility at a later date to determine whether the facility has come into, and is maintaining, full compliance with the applicable rules. Fines may be pursued for any or all violations observed during this or subsequent inspections of the facility.

The written report as requested above should be addressed as follows:

Robert Bishop, Waste Management Specialist
DES/WMD
P.O. Box 95
Concord, NH 03302-0095

Enclosed you will find a copy of the completed Hazardous Waste Generator Inspection Report which documents the compliance status of your facility at the time of the inspection. This report may also be of value to you for use in determining future compliance with the New Hampshire Hazardous Waste Rules.

The State of New Hampshire Hazardous Waste Rules, as well as much other useful information, can be obtained from DES's website at <http://www.des.state.nh.us/hwcs/>, or by contacting the Public Information Center at (603) 271-2975.

It is the goal of DES to promote the prevention of pollution at the source as the preferred option for meeting established environmental quality goals. We strive to ensure that pollution prevention options are considered first, followed by recycling, treatment and disposal. I am requesting that the DES's Pollution Prevention Coordinator, Stephanie D'Agostino, contact you to discuss possibilities for waste minimization or source reduction at your facility. In the meantime, if you have immediate questions about pollution prevention, please feel free to contact her at 271-6398.

As a service to New Hampshire's hazardous waste generators, we maintain a Hazardous Waste Assistance Hotline which is available for you to contact our knowledgeable staff of hazardous waste inspectors. Our hazardous waste staff is available to answer your questions concerning the New Hampshire Hazardous Waste Rules and the compliance issues which affect your hazardous waste management program. The technical assistance available through the Hotline includes fact sheets that pertain to the management and recycling of specific wastes, summary sheets of specific sections of the Hazardous Waste Rules, copies of EPA and New Hampshire hazardous

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waste policy or regulatory interpretation letters that may benefit your operation, and networks with other state or federal agencies to answer your questions on a national level. The Hotline is available Monday through Friday, 8:00 AM to 4:00 PM at (1-866) HAZ-WAST (in-state only) or (603) 271-2942.

Should you have any questions regarding this letter, please contact Robert Bishop, or Tod Leedberg, RCRA Compliance Supervisor at 271-2942. Thank you for your continued cooperation.

Sincerely,

~~COPY~~

John J. Duclos, Administrator
Hazardous Waste Compliance Bureau
Waste Management Division

cc: DB/RCRA/LOD/Archives
Anthony P. Giunta, P.G., Director, WMD/ Paul L. Heirtzler, P.E., Esq., Administrator, WMP, WMD
Gretchen Hamel, Administrator, DES Legal Unit
Linda Parker, Environmental, Health and Safety Officer, D. G. O'Brien, Inc., 1 Chase Park, P.O. Box 159,
Seabrook, NH, 03874-0159

cc: JJD/SD

Enclosure: Hazardous Waste Generator Inspection Report